**Court’s Case Decision Potential Considerations Notes**

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[Highlighting and **bolding** emphasis added.]

***Locke v. Cnty. of Hubbard*, No. 24-1285, --- F.4th ---, 2025 WL 2657200 (8th Cir. [D.MN] Sept. 17, 2025)**

According to the document, Matthew Locke sustained the following injuries:

1. **Facial Paralysis (Bell's Palsy)** ​
	* Locke could no longer move the right side of his face "in a normal manner." ​
2. **Tinnitus**
	* Persistent ringing or noise in the ears. ​
3. **Emotional Distress**
	* Psychological harm resulting from the incident. ​

These injuries were allegedly caused by the officers' use of multiple pressure-point pain compliance techniques during his arrest. ​

**Table of Force Techniques Allegedly Used and Alleged Injuries**

| **#** | **Force Technique** | **Description** | **Alleged Injuries** |
| --- | --- | --- | --- |
| **1** | **Mandibular Angle Technique** ​ | Pressure applied to a pressure point behind the ear to cause incapacitating pain. ​ | Excruciating pain; facial paralysis (Bell's Palsy). ​ |
| **2** | **Infra Orbital Technique** ​ | Pressure applied to the infra orbital nerve at the base of the nose. ​ | Excruciating pain; facial paralysis (Bell's Palsy). ​ |
| **3** | **Hypoglossal Nerve Pressure** ​ | Pressure applied to the hypoglossal nerve in the neck. ​ | Excruciating pain; facial paralysis (Bell's Palsy). ​ |
| **4** | **Multiple Pain Compliance Techniques** ​ | Repeated application of the above techniques to the head and neck. ​ | Facial paralysis (Bell's Palsy), tinnitus, emotional distress. ​ |

This table summarizes the force options used by the officers and the injuries Locke alleged as a result.

**VERY Brief Incident Abstract:**

**Abstract:** In *Locke v. County of Hubbard et al.​*, the Eighth Circuit reversed the dismissal of Matthew Locke's claims against Hubbard County, MN, and its officers, who allegedly used excessive force during his arrest at a pipeline protest. Locke, who passively resisted arrest, suffered severe injuries from pain compliance techniques applied by the officers. The court held that Locke plausibly alleged violations of his Fourth Amendment rights and that the right to be free from more than de minimis force during a nonviolent arrest was clearly established. The case was remanded for further consideration of municipal liability and state law claims. ​ This decision highlights limits on police use of force and accountability for constitutional violations. ​

**[DCT]** *Locke v. Cnty. of Hubbard*, No. 23-CV-0571 (WMW/LIB), Not Reported in Fed. Supp., 2024 WL 229984 (D. Minn. Jan. 22, 2024), *rev'd and remanded*, No. 24-1285, --- F.4th ---, 2025 WL 2657200 (8th Cir. Sept. 17, 2025).

**Learning/Training Points Based on Clearly Established Legal (CEL) Principles:**

1. **Use of Force Must Be Objectively Reasonable** ​ Officers must apply an objective reasonableness standard when using force, considering the severity of the crime, whether the suspect poses an immediate threat, and whether the suspect is actively resisting or attempting to evade arrest. ​***Source:*** *Graham v. Connor*, 490 U.S. 386, 396–97 (1989). ​
2. **De Minimis Force for Nonviolent Misdemeanants** ​ If a person is suspected of a nonviolent misdemeanor, is not threatening anyone, and is neither fleeing nor actively resisting arrest, officers may use no more than de minimis force. ​***Source:*** *Mitchell v. Kirchmeier*, 28 F.4th 888, 898 (8th Cir. ​2022). ​
3. **Passive Resistance Does Not Justify Substantial Force** ​ Noncompliance or passive resistance, such as failing to release oneself from a device, does not rise to the level of active resistance and does not justify the use of substantial force. ​ ***Source:*** *Tatum v. Robinson*, 858 F.3d 544, 549 (8th Cir. ​ 2017).
4. **Pain Compliance Techniques Must Be Proportionate** Pain compliance techniques must be proportionate to the circumstances and cannot be used gratuitously to inflict pain. ***Source:*** *Edrei v. Maguire*, 892 F.3d 525, 542 (2d Cir. 2018). ​
5. **Consideration of Alternative Methods** ​ Officers must consider the availability of alternative methods to subdue or arrest a suspect, especially in situations where the suspect poses no immediate threat. ​***Source****:* *Retz v. Seaton*, 741 F.3d 913, 918 (8th Cir. ​ 2014). ​
6. **Clearly Established Right to Be Free from Excessive Force** ​ It is clearly established that officers may not use more than de minimis force against peaceful protestors or nonviolent individuals who are passively resisting arrest. ***Source:*** *Brown v. City of Golden Valley*, 574 F.3d 491, 499 (8th Cir. 2009). ​
7. **Qualified Immunity Does Not Protect Unreasonable Actions** ​ Qualified immunity does not apply when an officer's actions violate a clearly established constitutional right that a reasonable officer would have known. ​***Source:*** *Anderson v. Creighton*, 483 U.S. 635, 640 (1987). ​

These principles provide a framework for assisting officers in deciding if their actions comply with constitutional standards and avoid excessive force during arrests. ​

**Comparative Reference Table of CEL Passive and Active Resistance**

**CEL Passive Resistance**

| **#** | **CEL Principle** | **Source (Full Citation)** |
| --- | --- | --- |
| 1 | Noncompliance and arguing do not amount to active resistance. ​ | *Tatum v. Robinson*, 858 F.3d 544, 549 (8th Cir. ​ 2017). |
| 2 | Peaceful protestors ignoring commands or warnings are considered passively resisting. ​ | *Mitchell v. Kirchmeier*, 28 F.4th 888, 898 (8th Cir. ​ 2022). ​ |
| 3 | Passive resistance includes failing to release oneself from a device without posing a threat. | *Graham v. Connor*, 490 U.S. 386, 396–97 (1989). ​ |
| 4 | Passive resistance may justify de minimis force but not substantial force. ​ | *Brown v. City of Golden Valley*, 574 F.3d 491, 499 (8th Cir. ​ 2009). ​ |

**CEL Active Resistance**

| **#** | **CEL Principle** | **Source (Full Citation)** |
| --- | --- | --- |
| 5 | Active resistance includes pulling away, fleeing, or using force to impede arrest. ​ | *United States v. Hollis*, 447 F.3d 1053, 1055 (8th Cir. ​2006). ​ |
| 6 | Refusing to move hands for handcuffing, coupled with other acts of defiance, constitutes active resistance. ​ | *Rudlaff v. Gillispie*, 791 F.3d 638, 641 (6th Cir. 2015). ​ |
| 7 | Continuing to lay on hands and refusing to comply with instructions may be interpreted as active resistance. ​ | *Carpenter v. Gage*, 686 F.3d 644, 649–50 (8th Cir. 2012). ​ |
| 8 | Active resistance may justify the use of taser force or other substantial measures. ​ | *Kohorst v. Smith*, 968 F.3d 871, 878 (8th Cir. 2020). ​ |

This table organizes CEL principles by resistance type and severity, providing a clear distinction between passive and active resistance and their corresponding “Clearly Established Law” (CEL) legal standards.

The document does not explicitly define "passive resistance" or "active resistance." However, based on the cited legal principles and case law, the following definitions can be inferred:

**Passive Resistance**

Passive resistance refers to nonviolent, noncompliant behavior where an individual does not actively cooperate with law enforcement but does not use physical force or pose a threat. Examples include:

* Ignoring commands or warnings (e.g., standing still or refusing to move). ​
* Failing to release oneself from a device (e.g., a "sleeping dragon" device). ​
* Arguing or verbally protesting without physical defiance. ​

*Sources:*

* *Tatum v. Robinson*, 858 F.3d 544, 549 (8th Cir. ​2017).
* *Mitchell v. Kirchmeier*, 28 F.4th 888, 898 (8th Cir. ​2022). ​
* *Graham v. Connor*, 490 U.S. 386, 396–97 (1989). ​

**Active Resistance**

Active resistance involves physical actions or behaviors that impede or obstruct law enforcement efforts to arrest or control an individual. This includes:

* Pulling away, fleeing, or attempting to evade arrest. ​
* Refusing to move hands for handcuffing, especially when combined with other defiant acts. ​
* Using physical force to resist or impede officers.

*Sources:*

* *United States v. Hollis*, 447 F.3d 1053, 1055 (8th Cir. 2006). ​
* *Rudlaff v. Gillispie*, 791 F.3d 638, 641 (6th Cir. ​2015). ​
* *Carpenter v. Gage*, 686 F.3d 644, 649–50 (8th Cir. 2012). ​

These definitions are derived from the legal context provided in the document and relevant case law. ​

**Case’s Mentions of Use of TASER® Conducted Electrical Weapon (CEW)**

The document mentions the use of a TASER CEW in the following contexts:

1. ***Ehlers v. City of Rapid City*** *​*
	* The case discusses the use of a taser by an officer during an arrest. ​The officer used a taser to shock the arrestee while three other officers held the individual down. ​The court granted qualified immunity to the officer, reasoning that the officer could reasonably interpret the arrestee's behavior as resistance and respond accordingly. ​
	* ***Source:*** *Ehlers v. City of Rapid City*, 846 F.3d 1002, 1007–08, 1011 (8th Cir. ​2017).
2. ***Brown v. City of Golden Valley*** ​
	* The document references this case to highlight that a reasonable officer would have known it was unlawful to use a taser in certain circumstances. ​ The case is used to illustrate that even relatively new implements of force, like tasers, can be deemed excessive depending on the situation. ​
	* ***Source:*** *Brown v. City of Golden Valley*, 574 F.3d 491, 498 n.5, 499 (8th Cir. ​2009). ​
3. ***Kohorst v. Smith*** ​
	* The document notes that unarmed, passively resisting subjects can sometimes justify the use of taser force, depending on the circumstances. ​
	* ***Source:*** *Kohorst v. Smith*, 968 F.3d 871, 878 (8th Cir. 2020). ​

These are the only mentions or references to tasers or similar electrical weapons in the document.

**Summary**

This document details the Eighth Circuit Court of Appeals' decision in *Locke v. County of Hubbard*, addressing claims of excessive force by law enforcement during a protest.

**Case Background**

* Matthew Locke filed a lawsuit against Hubbard County, Sheriff Cory Aukes, and Chief Deputy Sheriff Scott Parks under 42 U.S.C. ​§ 1983 and Minnesota law, alleging excessive force during an oil pipeline protest. ​
* The district court dismissed the case, granting qualified and official immunity to the officers and ruling that the complaint did not establish municipal liability. ​

**Court's Findings**

* The Eighth Circuit reviewed the case de novo, accepting the facts in Locke's complaint as true.
* On August 16, 2021, Locke and another protestor used a "sleeping dragon device" to attach themselves to construction equipment during a protest against an Enbridge pipeline. ​
* **Officers attempted to remove Locke using pain compliance techniques, which resulted in severe injuries, including facial paralysis and emotional distress.**

**Excessive Force Claim**

* The court evaluated whether the officers' actions violated Locke's Fourth Amendment rights against excessive force. ​
* The standard applied was objective reasonableness, considering the severity of the crime, the threat posed by the suspect, and whether the suspect was actively resisting arrest. ​
* Locke was charged with nonviolent misdemeanors, and the **court found no justification for the level of force used against him, as he posed no immediate threat and was not actively resisting arrest.** ​

**Qualified Immunity Analysis**

* The court determined that a **reasonable officer would have known that the use of multiple pressure-point techniques was excessive under the circumstances.**
* The officers' actions were not justified as they **had time to consider alternative methods for handling the situation**, and the use of **force was not proportionate** to the nonviolent nature of the protest. ​

**Clearly Established Law**

* The court addressed whether the right violated was clearly established at the time of the incident. ​
* It concluded that prior case law indicated that **officers could not use more than de minimis force** against **individuals not suspected of serious crimes and who were not threatening anyone.** ​
* The court distinguished Locke's case from others where officers were granted qualified immunity, emphasizing that **Locke's passive resistance did not warrant the level of force used.** ​

**Official Capacity Claim**

* The court reversed the district court's dismissal of Locke's official capacity claim against the officers, which effectively targets Hubbard County. ​
* It noted that a county can be liable under § 1983 if a policy or custom inflicts injury, and the district court failed to consider whether the sheriff's actions constituted official policy. ​

**State Law Claims**

* The court also reversed the dismissal of Locke's state law claims for assault and battery, stating that the officers were not entitled to official immunity because their actions were not legally reasonable. ​
* The court highlighted that official immunity does not protect officials from actions that are **willful or malicious wrongs**.

**Dissenting Opinion**

* Circuit Judge Gruender dissented, arguing that the majority misapplied the law regarding qualified immunity. ​
* He contended that the officers' actions were not clearly established as unconstitutional, citing differences in the factual circumstances of previous cases.
* The dissent emphasized that Locke's alleged resistance was more active than passive and that the officers had reason to believe their actions were justified given the context of the protest.

**Conclusion**

* The Eighth Circuit **reversed** the district court's decisions regarding qualified immunity, official capacity claims, and state law claims, r**emanding** the case for further proceedings. The **court's ruling underscores the importance of evaluating the reasonableness of force used by law enforcement in nonviolent protest situations.**

**Legal Brief: *Locke v. County of Hubbard et al. ​***

**Court:** United States Court of Appeals, Eighth Circuit ​ **Case No.:** 24-1285 ​ **Date Filed:** September 17, 2025 ​ **Judges:** Gruender, Benton, and Kobes ​

**Facts:** Matthew Locke, a protestor, sued Hubbard County, Sheriff Cory Aukes, and Chief Deputy Sheriff Scott Parks under 42 U.S.C. § 1983 and Minnesota law, alleging excessive force during his arrest at an oil pipeline protest. ​ Locke had locked his arms into a "sleeping dragon device" attached to construction equipment, requiring specialized tools for removal. Officers applied multiple pain compliance techniques to Locke's head and neck, resulting in facial paralysis (Bell's Palsy), tinnitus, and emotional distress. The district court dismissed the case, granting qualified and official immunity to the officers and rejecting municipal liability claims against Hubbard County. ​

**Procedural History:** The district court dismissed Locke's claims, holding that the officers were entitled to qualified and official immunity and that Locke failed to state a claim for municipal liability. ​ Locke appealed.

**Issues:**

1. Did the officers violate Locke's Fourth Amendment right to be free from excessive force? ​
2. Was the violated right clearly established at the time of the incident? ​
3. Did Locke adequately plead municipal liability against Hubbard County? ​
4. Were the officers entitled to official immunity under Minnesota law for state law claims of assault and battery? ​

**Holding:** ​ The Eighth Circuit reversed the district court's dismissal, holding:

1. Locke plausibly alleged a violation of his Fourth Amendment rights. ​
2. The right to be free from more than de minimis force during a nonviolent arrest was clearly established. ​
3. Locke's official capacity claim against Hubbard County should be reconsidered under the final policymaker theory. ​
4. The officers were not entitled to official immunity for state law claims. ​

**Reasoning:**

1. **Constitutional Violation:** ​
	* The court applied the objective reasonableness standard from *Graham v. Connor*, considering the severity of the crime, immediate threat to safety, and resistance to arrest. ​ Locke was suspected of nonviolent misdemeanors, posed no immediate threat, and passively resisted arrest. ​ The officers had time to consider alternatives, yet applied multiple pain compliance techniques causing severe injuries. This use of force was excessive and not objectively reasonable. ​
2. **Clearly Established Law:** ​
	* The court relied on precedent (*Mitchell v. Kirchmeier*, *Poemoceah v. Morton County*) to conclude that it was clearly established that officers could use no more than de minimis force against nonviolent, passively resisting protestors. ​ Locke's injuries exceeded de minimis harm, and the officers' actions violated his clearly established rights. ​
3. **Municipal Liability:** ​
	* The district court failed to consider whether Sheriff Aukes, as the county's final policymaker for law enforcement, could establish municipal liability under *Monell v. Department of Social Services*. ​ The case was remanded for further consideration of this theory. ​
4. **State Law Claims:** ​
	* Under Minnesota law, official immunity does not protect discretionary acts that are willful or malicious. ​ The officers' use of excessive force violated Locke's known rights, making their actions objectively unreasonable. ​ Consequently, the county was not entitled to vicarious official immunity. ​

**Disposition:** The Eighth Circuit reversed and remanded the case for further proceedings. ​

**Dissent:** ​ Judge Gruender dissented, arguing that the officers were entitled to qualified immunity because the alleged conduct did not violate a clearly established right. ​ He emphasized that precedent relied upon by the majority was factually distinguishable and that the officers reasonably suspected Locke of felony theft, a serious crime. ​ Gruender also argued that the officers were entitled to official immunity under Minnesota law and that Locke failed to adequately plead municipal liability. ​

**Key Citations:**

* *Graham v. Connor*, 490 U.S. 386 (1989) ​
* *Mitchell v. Kirchmeier*, 28 F.4th 888 (8th Cir. 2022)
* *Monell v. Department of Social Services*, 436 U.S. 658 (1978) ​
* *Rico v. State*, 472 N.W.2d 100 (Minn. 1991) ​

**Conclusion:** The Eighth Circuit's decision underscores the importance of limiting force to de minimis levels during arrests of nonviolent, passively resisting individuals and clarifies the standards for municipal liability and official immunity in excessive force cases. ​